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Attorneys for Plaintiff
Spark Innovators, Corp.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SPARK INNOVATORS CORP.,	:	Civil Action No.
	:	
Plaintiff,	:	Jury Trial Demanded
	:	
ARM Enterprises, Inc., and ADRIAN RIVERA	:	
(individually)	:	
	:	
	:	
Defendants.	:	

COMPLAINT

Plaintiff Spark Innovators Corp. (“Spark” or “Plaintiff”), by its attorneys, for its Complaint against defendants ARM Enterprises, Inc. (“ARM”) and Adrian Rivera (“Rivera”) (collectively, “Defendants”) hereby alleges as follows:

THE PARTIES

1. Plaintiff Spark is a New Jersey corporation having a place of business at 41 Kulick Road, Fairfield, NJ 07004.

2. On information and belief, ARM is a business organized and existing under the laws of the State of California having a principal place of business at 9737 Bell

Ranch Drive, Santa Fe Springs, CA 90670. On information and belief, ARM is involved in the distribution of coffee products.

3. On information and belief, Rivera is the founder and president of ARM and directs all the activities of ARM, and resides at 14979 Lodosa Drive, Whittier, California 90605.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because it arises under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*

5. This Court has personal jurisdiction over defendants by virtue of, *inter alia*, Defendants, on information and belief, conduct business within New Jersey and this District, Defendants have committed tortious acts within New Jersey and this District, and Defendants have caused harm to Spark, which is headquartered in this District.

6. Venue is proper within this Judicial District under 28 U.S.C. §1391 because Defendants, on information and belief, conduct business within New Jersey and this District, Defendants have committed tortious acts within New Jersey and this District, and Defendants have caused harm to Spark, which is headquartered in this District.

BACKGROUND

7. On December 3, 2013, United States Patent No. D694579 S (the “‘579 patent”), entitled Refillable Filter Cup for Single Serve Beverage Brewer, was duly and legally issued by the United States Patent and Trademark Office. A copy of the ‘579 patent is attached hereto as Exhibit A.

8. Telebrands was the owner of the ‘579 patent at the time of its issuance until June 17, 2014, at which time the patent was assigned to Spark.

9. Spark is the current owner of the patent and as such has the authority to enforce the ‘579 patent, including the right to sue and recover all damages for infringement thereof, including past infringement.

10. Spark’s product that practices the ‘579 patent was originally known as “Clever Cup” and then later as the heavily marketed and advertised product “Café Cup.” The marketing of Spark’s product began as early as February, 2012 and was advertised on television in March, 2012.

11. ARM imports, uses, offers to sell, and sells the infringing “Eco-Fill” product (referred to herein as the “Accused Product”). The Accused Product infringes the ‘579 patent in the United States within the meaning of 35 U.S.C. § 271.

COUNT ONE
Infringement of the ‘579 Patent

12. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-11 as though fully set forth herein.

13. ARM has used, offered for sale, sold and imported into the United States the Accused Product, which infringes the ‘579 patent in violation of 35 U.S.C. § 271.

14. On information and belief, ARM was aware of Spark’s ‘579 patent as it closely monitors patents within the coffee brewing industry and has patents of its own unrelated to Spark’s ‘579 patent. ARM was and is aware that replicating the design of the filterless Refillable Filter Cup for Single Serve Beverage Brewer known as the “Café Cup” infringes upon the ‘579 patent.

34. ARM's Accused Product arrived on the scene months after Spark marketed its refillable filter cup product for single serve beverage brewers, the design of which is protected by Spark's '579 patent, which was originally known as "Clever Cup" and then later as "Café Cup." Spark heavily marketed its product through infomercials, web campaigns, infomercial looping displayed in large retail chains, and through it sales within large retail chains. Through all of this marketing, Defendant ARM was aware of Spark's product and patent status.

35. Spark has been damaged and has suffered irreparable injury due to acts of patent infringement by ARM and will continue to suffer irreparable injury unless ARM's activities are enjoined.

36. Spark has suffered and will continue to suffer substantial damage by reason of ARM's acts of patent infringement alleged above, and is entitled to recover from ARM the damages sustained as a result of ARM's actions.

REQUEST FOR RELIEF

WHEREFORE, plaintiff Spark respectfully requests judgment be entered by this Court in its favor and against ARM as follows:

- (a) That ARM has infringed the '579 patent;
- (b) Permanently enjoining and restraining ARM, its agent, affiliates, subsidiaries, servants, employees, officers, directors, attorneys and those persons in active concert with or controlled by ARM from further infringing the '579 patent;
- (c) For an award of damages adequate to compensate Spark for the damages it has suffered as a result of ARM's conduct, including pre-judgment interest;

- (d) That ARM be directed to withdraw from distribution all infringing products, whether in the possession of ARM or its distributors or retailers, and that all infringing products or materials be impounded or destroyed;
- (e) For monetary damages in an amount according to proof;
- (d) For interest on said damages at the legal rate from and after the date such damages were incurred;
- (e) That this is an exceptional case and for an award of attorneys' fees and costs;
- (f) For such other relief as the Court may deem just and proper.

Respectfully submitted,

/s/Sharmilee Khubani

Dated: September 30, 2014

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